

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-016-02-1-5-00036  
**Petitioners:** Donald & Ruth Ittel  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 006-27-17-0135-0021  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on January 29, 2004 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$113,500 and notified the Petitioners on March 26, 2004.
2. The Petitioners filed a Form 139L on April 13, 2004.
3. The Board issued a notice of hearing to the parties dated September 13, 2004.
4. A hearing was held on October 13, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is located at 771 Lincoln Street, Hobart, Hobart Township.
6. The subject property is a duplex rental home.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of subject property as determined by the DLGF:  
Land \$20,600 Improvements \$92,900 Total \$113,500
9. Assessed Value requested by Petitioners:  
Land \$10,000 Improvements \$70,000 Total \$80,000

10. The persons indicated on the sign-in sheet (Board Exhibit E) were present at the hearing in addition to two observers from the public.
11. Persons sworn in at hearing:
  - For Petitioner: Donald Ittel, Co-Owner
  - For Respondent: David Depp, Representing the DLGF

### **Issues**

12. Summary the of Petitioners' contentions in support of an alleged error in the assessment:
  - a. The Petitioners contend the subject land is valued too high when compared to actual sales of vacant properties. *Ittel testimony; Petitioners Exhibit 7.*
  - b. The Petitioners further contend that the assessment of the subject property is excessive when compared to the assessed values of comparable neighboring properties. *Ittel testimony; Petitioners Exhibits 2-4.*
  - c. The Petitioners also contend that the assessment is excessive when compared to sales and listing prices for comparable properties. *Ittel testimony; Petitioners Exhibits 5-6.*
13. Summary of the Respondent's testimony:

After listening to the Petitioners' testimony and reviewing the Petitioners' exhibits, the Respondent agreed that the assessment should be lowered to \$80,000.

### **Record**

14. The official record for this matter is made up of the following:
  - a. The Petition, and all subsequent submissions by either party.
  - b. The tape recording of the hearing labeled Lake Co. #337.
  - c. Exhibits:

- Petitioners Exhibit 1: Subject property record card (PRC)
- Petitioners Exhibit 2: PRC for three-flat across street (784 Lincoln)
- Petitioners Exhibit 3: PRC for duplex (791 Lincoln)
- Petitioners Exhibit 4: PRC for duplex (763 Lincoln)
- Petitioners Exhibit 5: CMA Report with 18 Sales
- Petitioners Exhibit 6: For Sale listings of two (2) similar properties
- Petitioners Exhibit 7: Vacant land settlement statement for another parcel
- Petitioners Exhibit 8: Form 139L Petition

Respondent Exhibit 1: 139L Petition  
Respondent Exhibit 2: Subject PRC  
Respondent Exhibit 3: Subject photograph  
Respondent Exhibit 4: Summary of three (3) comparable sales, PRCs & photographs

Board Exhibit A: Form 139 L  
Board Exhibit B: Original Notice of Hearing (June 29, 2004)  
Board Exhibit C: Request for continuance  
Board Exhibit D: Notice of Rescheduled Hearing  
Board Exhibit E: Sign in Sheet

d. These Findings and Conclusions.

### Analysis

15. The most applicable governing cases are:
- a. A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d at 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. Of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Wash. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) ("[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis").
  - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
16. The Petitioners provided sufficient testimony to support the Petitioners' contentions. This conclusion was arrived at because:
- a. The Petitioners presented evidence in support of their contention that the assessment of the subject property is excessive both in comparison to the assessment of comparable neighboring properties and in comparison to the sales and listing prices of comparable multi-family rental properties. *Ittel testimony; Petitioners Exhibits 2-6.*

- b. After listening to the Petitioners' testimony and reviewing the Petitioners' exhibits, the Respondent agreed that the evidence supported a reduced assessment in the amount of \$80,000. *Depp Testimony*.

### **Conclusion**

17. The Petitioners made a prima facie case. The Respondent agreed the property assessment was in error and should be lowered to \$80,000. The Board finds in favor of the Petitioners.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

### **IMPORTANT NOTICE**

#### **- APPEAL RIGHTS -**

**You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**

